

PETER C. HARVEY
Attorney General of New Jersey
Division of Law
124 Halsey Street, 5th Floor
P.O. Box 45029
Newark, New Jersey 07101

FILED

August 12, 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

By: **Swang 00**
Deputy Attorney General
(973) 648-7093

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS

IN THE MATTER OF THE SUSPENSION OR :
REVOCATION OF THE LICENSE OF

Administrative Action

JAMES R. COLE, M.D.
LICENSE NO.: 25MA03947000

CONSENT ORDER OF
VOLUNTARY SURRENDER

TO PRACTICE MEDICINE AND SURGERY :
IN THE STATE OF NEW JERSEY

This matter was opened to the State Board of Medical Examiners ("Board") upon receipt of information from the Physicians' Health Program of the Medical Society of New Jersey ("PHP") that **James R. Cole, M.D.** ("Respondent") voluntarily admitted a relapse into the abuse of alcohol and prescription medications. According to the PHP, **Respondent** has been a participant in the Alternate Resolution Program and had been subject to PHP monitoring **since** March 1, 2000, **Respondent entered** into in-patient treatment at Behavioral Health of the Palm Beaches, Florida, **on** or about May 31 through June 29, 2004.

Respondent now **seeks** leave to voluntarily surrender his license to practice medicine and surgery in the State of New Jersey without prejudice and in accordance with the terms of this **Order**.

CERTIFIED TRUE COPY

The Board finding the within disposition to be adequately **protective** of the public **health**, safety and **welfare**,

IT IS, therefore, on this 27 day of July, 2004,

ORDERED THAT:

1. Respondent, James R. Cole, M.D., is hereby granted leave and shall **immediately surrender** his license to practice **medicine** and surgery in the State of New Jersey for a minimum period of *six* (6) months from May 31, 2004.

2. Respondent shall participate **in** the Physicians Health Program (PHP) until further Order **of** the Board. Such participation **shall** include:

i. Respondent **shall** continue his participation in Alcoholic Anonymous 90 meetings **in** 90 days, thereafter attends a minimum of three meetings **per week**. Respondent agrees that the PHP shall **advise** the Board and the Attorney General **immediately** in the event it receives information that Respondent has discontinued attendance at AA.

ii. Respondent shall **absolutely** abstain from the use of alcohol and **all** controlled substances and prescription medications **unless** specifically prescribed by a treating physician who has Seen informed of Respondent's chemical dependency history, for a legitimate purpose, and in the usual course of the **treating physician's** medical practice. If any medication is taken upon prescription or dispensing from another physician, Respondent shall so notify **the** PHP of that fact **on** the following business day or

before the next **urine** sample is submitted, whichever is sooner, and shall cause this treating physician to transmit **the** records or treatment of Respondent **immediately** to the PHP.

iii. Respondent shall familiarize himself with all foods, food additives or other products (**such as** poppy seeds) which may affect **the** validity of urine screening, **be presumed** to possess that **knowledge**, and shall refrain from the use **of such substances**. Respondent specifically agrees that ingestion of such substances shall not **be an acceptable reason** for a positive urine screen and/or failure to **comply with** the urine monitoring program.

iv. Respondent shall have his urine monitored under the **supervision** of the PHP on a random basis no less that **twice per week**; the time, place and frequency of same to **be** determined by the PHP. The **urine** monitoring shall **be** conducted with direct witnessing of the taking of samples **either by** PHP staff or by their designees. The testing procedure shall include a forensic chain of custody protocol to ensure sample integrity and provide documentation in the event of a legal challenge. The PHP shall be responsible to assure that **all urine samples** are **handled** by a laboratory **competent** to provide these service. All test results shall be provided in the first instance **to the** PHP and any positive results shall be reported immediately by the PHP to William Roeder, Esq., Executive Director of the Board, or his **designee** and to the Attorney General. Any **failure** by respondent to submit or provide a urine sample within 24 hours **of a request** will be **deemed** to be

equivalent to a confirmed positive urine *test*. In the event *that* respondent is unable to **appear for** a scheduled urine test or to provide a urine **sample** due to illness or other impossibility, consent to **waive** the day's test **must** be secured from the Medical Director **of** the PHP or his designee. In addition, **respondent** must **provide the** PHP with a **written** substantiation of his inability to **appear** within two days. The PHP shall advise the Board and the Attorney **General** of every instance where a request has **been** made to **waive** the urine test **together** with the program's **determination** in such case. Respondent **expressly agrees** to waive any privilege he may have concerning such reports and disclosures to the Board and the Attorney General by the PHP;

v. Respondent shall continue to participate in the PHP and will adhere **to** all of the **requirements made** by that program, which requirement shall include, at a minimum, face-to-face meetings with the Medical Director of that program (**or** his designee) with **a** minimum frequency of once every month for the first **year** and once every two months thereafter, unless so modified **by** the PHP. Respondent shall expressly authorize the PHP to immediately inform the Board and the Attorney General of any lapse or violation of the terms of this Order or of Respondent's participation in the PHP and shall provide for any of **the** necessary **waivers** of privilege or confidentiality. The PHP shall provide quarterly **reports** to the Board until further order of the Board,

which reports shall detail Respondent's compliance with this Order and with the **requirements of the** PHP; and

vi. Respondent shall continue **weekly** group aftercare counseling under the supervision of Dr. Arnold Washton until further order of the Board. Respondent shall ensure that Dr. **Washton** submits quarterly reports to the Board of Medical Examiners through the PHP in which **he details the status** and progress of **Respondent's** therapy and reports **immediately** (within 24 hours) orally and in writing, any **discontinuance of** Respondent's treatment.

vii. Respondent shall commence counseling to **address** family issues **within 30 days** from **the date** of the **filing** of this Order.

3. Respondent hereby consents to the entry of an Order of automatic suspension of license without **notice**, upon the Board's receipt of any information which the Board in its sole discretion deems reliable that Respondent has failed to comply with any of **the** conditions **set** forth above, any other **provisions** of this Order, or any reports of a confirmed positive urine, or a prima facie showing of a relapse or recurrence of alcohol and/or drug abuse or any report **of** unprofessional conduct.

4. Respondent shall **be responsible** for all costs associated with the monitoring program outlined herein.

5. Respondent Shall have ~~the right~~ to apply for modification of the restrictions and **conditions** herein six months from **the** date of **the filing** of this Order.

6. Prior to any restoration of his license, Respondent shall:

- a. **Appear** before the Board, or a committee thereof, **to discuss** his readiness to re-enter the practice of medicine. At **that** time, **Respondent shall** be prepared to **propose** his plans for future practice in **New Jersey**;
- b. Provide the Board with **evidence** that he is capable of **discharging** the functions of a licensee in a manner consistent with the public's health, safety **and welfare** and that he is not then suffering from any **impairment** or limitation resulting from **the** use of cocaine, alcohol, or **any drug** which could affect his **practice**;
- c. Provide **the Board with evidence that Respondent** is not a habitual user of alcohol, drugs or intoxicants in violation of N.J.S.A. 45:9-16(b) and is not engaged in professional misconduct in violation of N.J.S.A. 45:1-21(e);
- d. Document **attendance** at the support **group** of Alcoholic Anonymous 90 meetings in 90 days, thereafter attends a minimum of three meetings per week. Respondent agrees that the PHP shall advise the Board and **the Attorney General** immediately in **the** event it receives information that Respondent **has discontinued attendance at AA**;
- e. Document attendance of random, twice-weekly urine monitoring under the **supervision** of the Physicians' Health Program staff. **All** test results shall **be** provided in the first instance to the PHP and any **positive** results shall be reported immediately by the PHP to William Roeder, Esq., Executive Director of the Board, or his designee and to the Attorney General;

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE
HAS BEEN ACCEPTED**

APPROVED BY THE BOARD ON MAY 10, 2000

All licensees who ~~are the subject of a disciplinary order of the Board~~ are required to provide ~~the information~~ required on ~~the addendum to these directives~~. The information provided ~~will be maintained separately and will not be part of the public document filed with the Board~~. Failure to provide ~~the information required~~ may result in further disciplinary action for ~~failing to cooperate with the Board, as required by N.J.A.C. 13:45C-1 et seq.~~ Paragraphs 1 through 4 below shall apply when a license ~~is~~ suspended or revoked or permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who ~~are the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.~~

1. Document Return and Agency Notification

The licensee shall promptly forward to ~~the Board~~ office at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents previously surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

2. Practice Cessation

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself as being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, the licensee must truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee ~~is~~ also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value office premises and/or equipment. In no case may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee may accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

you are attested:

Provide the names and addresses of every person with whom you are associated in your professional practice: (You may attach a blank sheet of stationery bearing this information).
